

**Introduced by Senator Scott**

January 21, 2004

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An act to amend Sections 12021, 12035, 12078, and 12101 of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 1140, as introduced, Scott. Firearms: minors.

(1) Under existing law, except as specified, any person who has been convicted of various misdemeanors, and who, within 10 years of the conviction, owns, or has in his or her possession or under his or her custody or control, any firearm is guilty of a public offense, punishable by imprisonment in a county jail not exceeding one year or in state prison, by a fine not exceeding \$1,000, or by both that imprisonment and fine.

This bill would add criminal storage of a firearm to the list of offenses to which this provision applies. By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

(2) Existing law defines "loaded firearm." Existing law provides that a person commits the crime of "criminal storage of a firearm" if, among other things, he or she keeps any loaded firearm within any premises that are under his or her custody or control and he or she knows or reasonably should know that a child is likely to gain access to the firearm without the permission of the child's parent or legal guardian and the child obtains access to the firearm and thereby causes death or injury, as specified.

This bill, in addition, would specify that a firearm is loaded if the ammunition for that firearm is stored in proximity to the firearm so that gaining access to the firearm also provides immediate access to the ammunition for that firearm. This bill would remove from the crime of

“criminal storage of a firearm” the requirement that the child gain access to the firearm without the permission of the child’s parent or legal guardian, and would provide that a person who keeps any loaded firearm within any premises that are under his or her custody or control and he or she knows or reasonably should know that a child is likely to gain access to the firearm and a child obtains access to the firearm is guilty of criminal storage of a firearm of the 3rd degree. This bill would make criminal storage of a firearm of the 3rd degree punishable by imprisonment in a county jail not exceeding 6 months, by a fine not exceeding \$1,000, or by both that fine and imprisonment. Because this bill would create a new crime and expand the definition of an existing crime, it would impose a state-mandated local program.

(3) Existing law prohibits minors from possessing a pistol, revolver, other firearm capable of being concealed upon the person.

This bill would instead prohibit minors from possessing a handgun unless specified circumstances exist, such as the minor is accompanied by his or her parent or legal guardian, and the minor is actively engaged in, or is direct transit to or from, a lawful, recreational sport. The bill would make related changes. By expanding the definition of a crime, the bill would establish a state-mandated local program.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 12021 of the Penal Code is amended to  
2 read:

3 12021. (a) (1) Any person who has been convicted of a  
4 felony under the laws of the United States, of the State of  
5 California, or any other state, government, or country, or of an  
6 offense enumerated in subdivision (a), (b), or (d) of Section  
7 12001.6, or who is addicted to the use of any narcotic drug, who  
8 owns or has in his or her possession or under his or her custody or  
9 control any firearm is guilty of a felony.



(2) Any person who has two or more convictions for violating paragraph (2) of subdivision (a) of Section 417 and who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(b) Notwithstanding subdivision (a), any person who has been convicted of a felony or of an offense enumerated in Section 12001.6, when that conviction results from certification by the juvenile court for prosecution as an adult in an adult court under Section 707 of the Welfare and Institutions Code, who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(c) (1) Except as provided in subdivision (a) or paragraph (2) of this subdivision, any person who has been convicted of a misdemeanor violation of Section 71, 76, 136.1, 136.5, or 140, subdivision (d) of Section 148, Section 171b, 171c, 171d, 186.28, 240, 241, 242, 243, 244.5, 245, 245.5, 246, 246.3, 247, 273.5, 273.6, 417, 417.1, 417.2, 417.6, 422, 626.9, 646.9, 12023, or 12024, subdivision (b) or (d) of Section 12034, *Section 12035*, Section 12040, subdivision (b) of Section 12072, subdivision (a) of former Section 12100, Section 12220, 12320, or 12590, or Section 8100, 8101, or 8103 of the Welfare and Institutions Code, any firearm-related offense pursuant to Sections 871.5 and 1001.5 of the Welfare and Institutions Code, or of the conduct punished in paragraph (3) of subdivision (g) of Section 12072, and who, within 10 years of the conviction, owns, or has in his or her possession or under his or her custody or control, any firearm is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine. The court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this subdivision. However, the prohibition in this paragraph may be reduced, eliminated, or conditioned as provided in paragraph (2) or (3).

(2) Any person employed as a peace officer described in Section 830.1, 830.2, 830.31, 830.32, 830.33, or 830.5 whose employment or livelihood is dependent on the ability to legally possess a firearm, who is subject to the prohibition imposed by this subdivision because of a conviction under Section 273.5, 273.6, or 646.9, may petition the court only once for relief from this

1 prohibition. The petition shall be filed with the court in which the  
2 petitioner was sentenced. If possible, the matter shall be heard  
3 before the same judge that sentenced the petitioner. Upon filing the  
4 petition, the clerk of the court shall set the hearing date and shall  
5 notify the petitioner and the prosecuting attorney of the date of the  
6 hearing. Upon making each of the following findings, the court  
7 may reduce or eliminate the prohibition, impose conditions on  
8 reduction or elimination of the prohibition, or otherwise grant  
9 relief from the prohibition as the court deems appropriate:

10 (A) Finds by a preponderance of the evidence that the  
11 petitioner is likely to use a firearm in a safe and lawful manner.

12 (B) Finds that the petitioner is not within a prohibited class as  
13 specified in subdivision (a), (b), (d), (e), or (g) or Section 12021.1,  
14 and the court is not presented with any credible evidence that the  
15 petitioner is a person described in Section 8100 or 8103 of the  
16 Welfare and Institutions Code.

17 (C) Finds that the petitioner does not have a previous  
18 conviction under this subdivision no matter when the prior  
19 conviction occurred.

20 In making its decision, the court shall consider the petitioner's  
21 continued employment, the interest of justice, any relevant  
22 evidence, and the totality of the circumstances. The court shall  
23 require, as a condition of granting relief from the prohibition under  
24 this section, that the petitioner agree to participate in counseling  
25 as deemed appropriate by the court. Relief from the prohibition  
26 shall not relieve any other person or entity from any liability that  
27 might otherwise be imposed. It is the intent of the Legislature that  
28 courts exercise broad discretion in fashioning appropriate relief  
29 under this paragraph in cases in which relief is warranted.  
30 However, nothing in this paragraph shall be construed to require  
31 courts to grant relief to any particular petitioner. It is the intent of  
32 the Legislature to permit persons who were convicted of an offense  
33 specified in Section 273.5, 273.6, or 646.9 to seek relief from the  
34 prohibition imposed by this subdivision.

35 (3) Any person who is subject to the prohibition imposed by  
36 this subdivision because of a conviction of an offense prior to that  
37 offense being added to paragraph (1) may petition the court only  
38 once for relief from this prohibition. The petition shall be filed  
39 with the court in which the petitioner was sentenced. If possible,  
40 the matter shall be heard before the same judge that sentenced the

petitioner. Upon filing the petition, the clerk of the court shall set the hearing date and notify the petitioner and the prosecuting attorney of the date of the hearing. Upon making each of the following findings, the court may reduce or eliminate the prohibition, impose conditions on reduction or elimination of the prohibition, or otherwise grant relief from the prohibition as the court deems appropriate:

(A) Finds by a preponderance of the evidence that the petitioner is likely to use a firearm in a safe and lawful manner.

(B) Finds that the petitioner is not within a prohibited class as specified in subdivision (a), (b), (d), (e), or (g) or Section 12021.1, and the court is not presented with any credible evidence that the petitioner is a person described in Section 8100 or 8103 of the Welfare and Institutions Code.

(C) Finds that the petitioner does not have a previous conviction under this subdivision, no matter when the prior conviction occurred.

In making its decision, the court may consider the interest of justice, any relevant evidence, and the totality of the circumstances. It is the intent of the Legislature that courts exercise broad discretion in fashioning appropriate relief under this paragraph in cases in which relief is warranted. However, nothing in this paragraph shall be construed to require courts to grant relief to any particular petitioner.

(4) Law enforcement officials who enforce the prohibition specified in this subdivision against a person who has been granted relief pursuant to paragraph (2) or (3) shall be immune from any liability for false arrest arising from the enforcement of this subdivision unless the person has in his or her possession a certified copy of the court order that granted the person relief from the prohibition. This immunity from liability shall not relieve any person or entity from any other liability that might otherwise be imposed.

(d) (1) Any person who, as an express condition of probation, is prohibited or restricted from owning, possessing, controlling, receiving, or purchasing a firearm and who owns, or has in his or her possession or under his or her custody or control, any firearm but who is not subject to subdivision (a) or (c) is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not

1 exceeding one thousand dollars (\$1,000), or by both that  
2 imprisonment and fine. The court, on forms provided by the  
3 Department of Justice, shall notify the department of persons  
4 subject to this subdivision. The notice shall include a copy of the  
5 order of probation and a copy of any minute order or abstract  
6 reflecting the order and conditions of probation.

7 (2) For any person who is subject to subdivision (a), (b), or (c),  
8 the court shall, at the time judgment is imposed, provide on a form  
9 supplied by the Department of Justice, a notice to the defendant  
10 prohibited by this section from owning, possessing or having  
11 under his or her custody or control, any firearm. The notice shall  
12 inform the defendant of the prohibition regarding firearms and  
13 include a form to facilitate the transfer of firearms. Failure to  
14 provide the notice shall not be a defense to a violation of this  
15 section.

16 (e) Any person who (1) is alleged to have committed an offense  
17 listed in subdivision (b) of Section 707 of the Welfare and  
18 Institutions Code, an offense described in subdivision (b) of  
19 Section 1203.073, or any offense enumerated in paragraph (1) of  
20 subdivision (c), and (2) is subsequently adjudged a ward of the  
21 juvenile court within the meaning of Section 602 of the Welfare  
22 and Institutions Code because the person committed an offense  
23 listed in subdivision (b) of Section 707 of the Welfare and  
24 Institutions Code, an offense described in subdivision (b) of  
25 Section 1203.073, or any offense enumerated in paragraph (1) of  
26 subdivision (c) shall not own, or have in his or her possession or  
27 under his or her custody or control, any firearm until the age of 30  
28 years. A violation of this subdivision shall be punishable by  
29 imprisonment in a county jail not exceeding one year or in the state  
30 prison, by a fine not exceeding one thousand dollars (\$1,000), or  
31 by both that imprisonment and fine. The juvenile court, on forms  
32 prescribed by the Department of Justice, shall notify the  
33 department of persons subject to this subdivision.  
34 Notwithstanding any other law, the forms required to be submitted  
35 to the department pursuant to this subdivision may be used to  
36 determine eligibility to acquire a firearm.

37 (f) Subdivision (a) shall not apply to a person who has been  
38 convicted of a felony under the laws of the United States unless  
39 either of the following criteria is satisfied:



1 (1) Conviction of a like offense under California law can only  
2 result in imposition of felony punishment.

3 (2) The defendant was sentenced to a federal correctional  
4 facility for more than 30 days, or received a fine of more than one  
5 thousand dollars (\$1,000), or received both punishments.

6 (g) (1) Every person who purchases or receives, or attempts to  
7 purchase or receive, a firearm knowing that he or she is subject to  
8 a protective order as defined in Section 6218 of the Family Code,  
9 Section 136.2, or a temporary restraining order or injunction  
10 issued pursuant to Section 527.6 or 527.8 of the Code of Civil  
11 Procedure, is guilty of a public offense, which shall be punishable  
12 by imprisonment in a county jail not exceeding one year or in the  
13 state prison, by a fine not exceeding one thousand dollars (\$1,000),  
14 or by both that imprisonment and fine. This subdivision does not  
15 apply unless the copy of the restraining order personally served on  
16 the person against whom the restraining order is issued contains a  
17 notice in bold print stating (1) that the person is prohibited from  
18 purchasing or receiving or attempting to purchase or receive a  
19 firearm and (2) specifying the penalties for violating this  
20 subdivision, or a court has provided actual verbal notice of the  
21 firearm prohibition and penalty as provided in Section 6304 of the  
22 Family Code.

23 (2) Every person who owns or possesses a firearm knowing that  
24 he or she is prohibited from owning or possessing a firearm by the  
25 provisions of a protective order as defined in Section 6218 of the  
26 Family Code, Section 136.2 of the Penal Code, or a temporary  
27 restraining order or injunction issued pursuant to Section 527.6 or  
28 527.8 of the Code of Civil Procedure, is guilty of a public offense,  
29 which shall be punishable by imprisonment in a county jail not  
30 exceeding one year, by a fine not exceeding one thousand dollars  
31 (\$1,000), or by both that imprisonment and fine. This subdivision  
32 does not apply unless a copy of the restraining order personally  
33 served on the person against whom the restraining order is issued  
34 contains a notice in bold print stating (1) that the person is  
35 prohibited from owning or possessing or attempting to own or  
36 possess a firearm and (2) specifying the penalties for violating this  
37 subdivision, or a court has provided actual verbal notice of the  
38 firearm prohibition and penalty as provided in Section 6304 of the  
39 Family Code.



(3) Judicial Council shall provide notice on all protective orders that the respondent is prohibited from owning, possessing, purchasing, or receiving a firearm while the protective order is in effect and that the firearm shall be relinquished to the local law enforcement agency for that jurisdiction or sold to a licensed gun dealer, and that proof of surrender or sale shall be filed within a specified time of receipt of the order. The order shall also state on its face the expiration date for relinquishment.

(4) If probation is granted upon conviction of a violation of this subdivision, the court shall impose probation consistent with the provisions of Section 1203.097.

(h) (1) A violation of subdivision (a), (b), (c), (d), or (e) is justifiable where all of the following conditions are met:

(A) The person found the firearm or took the firearm from a person who was committing a crime against him or her.

(B) The person possessed the firearm no longer than was necessary to deliver or transport the firearm to a law enforcement agency for that agency's disposition according to law.

(C) If the firearm was transported to a law enforcement agency, it was transported in accordance with paragraph (18) of subdivision (a) of Section 12026.2.

(D) If the firearm is being transported to a law enforcement agency, the person transporting the firearm has given prior notice to the law enforcement agency that he or she is transporting the firearm to the law enforcement agency for disposition according to law.

(2) Upon the trial for violating subdivision (a), (b), (c), (d), or (e), the trier of fact shall determine whether the defendant was acting within the provisions of the exemption created by this subdivision.

(3) The defendant has the burden of proving by a preponderance of the evidence that he or she comes within the provisions of the exemption created by this subdivision.

(i) Subject to available funding, the Attorney General, working with the State Judicial Council, the California Alliance Against Domestic Violence, prosecutors, and law enforcement, probation, and parole officers, shall develop a protocol for the implementation of the provisions of this section. The protocol shall be designed to facilitate the enforcement of restrictions on firearm ownership, including provisions for giving notice to



defendants who are restricted, provisions for informing those defendants of the procedures by which defendants shall dispose of firearms when required to do so, provisions explaining how defendants shall provide proof of the lawful disposition of firearms, and provisions explaining how defendants may obtain possession of seized firearms when legally permitted to do so pursuant to this section or any other provision of law. The protocol shall be completed on or before January 1, 2005.

SEC. 2. Section 12035 of the Penal Code is amended to read:

12035. (a) As used in this section, the following definitions apply:

(1) “Locking device” means a device that is designed to prevent the firearm from functioning and when applied to the firearm, renders the firearm inoperable.

(2) “Loaded firearm” has the same meaning as set forth in subdivision (g) of Section 12031. *In addition, a firearm is loaded if the ammunition for that firearm is stored in proximity to the firearm so that gaining access to the firearm also provides immediate access to ammunition for that firearm.*

(3) “Child” means a person under 18 years of age.

(4) “Great bodily injury” has the same meaning as set forth in Section 12022.7.

(5) “Locked container” has the same meaning as set forth in subdivision (d) of Section 12026.2.

(b) (1) Except as provided in subdivision (c), a person commits the crime of “criminal storage of a firearm of the first degree” if he or she keeps any loaded firearm within any premises that are under his or her custody or control and he or she knows or reasonably should know that a child is likely to gain access to the firearm ~~without the permission of the child’s parent or legal guardian~~ and the child obtains access to the firearm and thereby causes death or great bodily injury to himself, herself, or any other person.

(2) Except as provided in subdivision (c), a person commits the crime of “criminal storage of a firearm of the second degree” if he or she keeps any loaded firearm within any premises that are under his or her custody or control and he or she knows or reasonably should know that a child is likely to gain access to the firearm ~~without the permission of the child’s parent or legal guardian~~ and the child obtains access to the firearm and thereby

1 causes injury, other than great bodily injury, to himself, herself, or  
2 any other person, or carries the firearm either to a public place or  
3 in violation of Section 417.

4 (3) *Except as provided in subdivision (c), a person commits the*  
5 *crime of “criminal storage of a firearm of the third degree” if he*  
6 *or she keeps any loaded firearm within any premises that are under*  
7 *his or her custody or control and he or she knows or reasonably*  
8 *should know that a child is likely to gain access to the firearm and*  
9 *a child obtains access to the firearm.*

10 (c) Subdivision (b) shall not apply whenever any of the  
11 following occurs:

12 (1) The child obtains the firearm as a result of an illegal entry  
13 to any premises by any person.

14 (2) The firearm is kept in a locked container or in a location that  
15 a reasonable person would believe to be secure.

16 (3) The firearm is carried on the person or within such a close  
17 proximity thereto that the individual can readily retrieve and use  
18 the firearm as if carried on the person.

19 (4) The firearm is locked with a locking device that has  
20 rendered the firearm inoperable.

21 (5) The person is a peace officer or a member of the armed  
22 forces or National Guard and the child obtains the firearm during,  
23 or incidental to, the performance of the person’s duties.

24 (6) The child obtains, or obtains and discharges, the firearm in  
25 a lawful act of self-defense or defense of another person, or  
26 persons.

27 (7) The person who keeps a loaded firearm on any premise that  
28 is under his or her custody or control has no reasonable  
29 expectation, based on objective facts and circumstances, that a  
30 child is likely to be present on the premises.

31 (8) *The minor is in legal possession of the firearm pursuant to*  
32 *Section 12101.*

33 (d) Criminal storage of a firearm is punishable as follows:

34 (1) Criminal storage of a firearm in the first degree, by  
35 imprisonment in the state prison for 16 months, or two or three  
36 years, by a fine not exceeding ten thousand dollars (\$10,000), or  
37 by both that imprisonment and fine; or by imprisonment in a  
38 county jail not exceeding one year, by a fine not exceeding one  
39 thousand dollars (\$1,000), or by both that fine and imprisonment.



(2) Criminal storage of a firearm in the second degree, by imprisonment in a county jail not exceeding one year, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

*(3) Criminal storage of a firearm of the third degree, by imprisonment in a county jail not exceeding six months, by a fine not exceeding one thousand dollars (\$1,000), or by both that fine and imprisonment.*

(e) If the person who allegedly violated this section is the parent or guardian of a child who is injured or who dies as the result of an accidental shooting, the district attorney shall consider, among other factors, the impact of the injury or death on the person alleged to have violated this section when deciding whether to prosecute an alleged violation. It is the Legislature's intent that a parent or guardian of a child who is injured or who dies as the result of an accidental shooting shall be prosecuted only in those instances in which the parent or guardian behaved in a grossly negligent manner or where similarly egregious circumstances exist. This subdivision shall not otherwise restrict, in any manner, the factors that a district attorney may consider when deciding whether to prosecute alleged violations of this section.

(f) If the person who allegedly violated this section is the parent or guardian of a child who is injured or who dies as the result of an accidental shooting, no arrest of the person for the alleged violation of this section shall occur until at least seven days after the date upon which the accidental shooting occurred.

In addition to the limitation contained in this subdivision, a law enforcement officer shall consider the health status of a child who suffers great bodily injury as the result of an accidental shooting prior to arresting a person for a violation of this section, if the person to be arrested is the parent or guardian of the injured child. The intent of this subdivision is to encourage law enforcement officials to delay the arrest of a parent or guardian of a seriously injured child while the child remains on life-support equipment or is in a similarly critical medical condition.

(g) (1) The fact that the person who allegedly violated this section attended a firearm safety training course prior to the purchase of the firearm that is obtained by a child in violation of this section shall be considered a mitigating factor by a district

1 attorney when he or she is deciding whether to prosecute the  
2 alleged violation.

3 (2) In any action or trial commenced under this section, the fact  
4 that the person who allegedly violated this section attended a  
5 firearm safety training course prior to the purchase of the firearm  
6 that is obtained by a child in violation of this section, shall be  
7 admissible.

8 (h) Every person licensed under Section 12071 shall post  
9 within the licensed premises the notice required by paragraph (7)  
10 of subdivision (b) of that section, disclosing the duty imposed by  
11 this section upon any person who keeps a loaded firearm.

12 SEC. 3. Section 12078 of the Penal Code is amended to read:

13 12078. (a) (1) The waiting periods described in Sections  
14 12071, 12072, and 12084 shall not apply to deliveries, transfers,  
15 or sales of firearms made to persons properly identified as  
16 full-time paid peace officers as defined in Chapter 4.5  
17 (commencing with Section 830) of Title 3 of Part 2, provided that  
18 the peace officers are authorized by their employer to carry  
19 firearms while in the performance of their duties. Proper  
20 identification is defined as verifiable written certification from the  
21 head of the agency by which the purchaser or transferee is  
22 employed, identifying the purchaser or transferee as a peace  
23 officer who is authorized to carry firearms while in the  
24 performance of his or her duties, and authorizing the purchase or  
25 transfer. The certification shall be delivered to the dealer or local  
26 law enforcement agency acting pursuant to Section 12084 at the  
27 time of purchase or transfer and the purchaser or transferee shall  
28 identify himself or herself as the person authorized in the  
29 certification. The dealer or local law enforcement agency shall  
30 keep the certification with the record of sale, or LEFT, as the case  
31 may be. On the date that the delivery, sale, or transfer is made, the  
32 dealer delivering the firearm or the law enforcement agency  
33 processing the transaction pursuant to Section 12084 shall forward  
34 by prepaid mail to the Department of Justice a report of the  
35 transaction pursuant to subdivision (b) or (c) of Section 12077 or  
36 Section 12084. If electronic or telephonic transfer of applicant  
37 information is used, on the date that the application to purchase is  
38 completed, the dealer delivering the firearm shall transmit to the  
39 Department of Justice an electronic or telephonic report of the



1 transaction as is indicated in subdivision (b) or (c) of Section  
2 12077.

3 (2) Subdivision (b) of Section 12801 and the preceding  
4 provisions of this article do not apply to deliveries, transfers, or  
5 sales of firearms made to authorized law enforcement  
6 representatives of cities, counties, cities and counties, or state or  
7 federal governments for exclusive use by those governmental  
8 agencies if, prior to the delivery, transfer, or sale of these firearms,  
9 written authorization from the head of the agency authorizing the  
10 transaction is presented to the person from whom the purchase,  
11 delivery, or transfer is being made. Proper written authorization is  
12 defined as verifiable written certification from the head of the  
13 agency by which the purchaser or transferee is employed,  
14 identifying the employee as an individual authorized to conduct  
15 the transaction, and authorizing the transaction for the exclusive  
16 use of the agency by which he or she is employed. Within 10 days  
17 of the date a pistol, revolver, or other firearm capable of being  
18 concealed upon the person is acquired by the agency, a record of  
19 the same shall be entered as an institutional weapon into the  
20 Automated Firearms System (AFS) via the California Law  
21 Enforcement Telecommunications System (CLETS) by the law  
22 enforcement or state agency. Those agencies without access to  
23 AFS shall arrange with the sheriff of the county in which the  
24 agency is located to input this information via this system.

25 (3) Subdivision (b) of Section 12801 and the preceding  
26 provisions of this article do not apply to the loan of a firearm made  
27 by an authorized law enforcement representative of a city, county,  
28 or city and county, or the state or federal government to a peace  
29 officer employed by that agency and authorized to carry a firearm  
30 for the carrying and use of that firearm by that peace officer in the  
31 course and scope of his or her duties.

32 (4) Subdivision (b) of Section 12801 and the preceding  
33 provisions of this article do not apply to the delivery, sale, or  
34 transfer of a firearm by a law enforcement agency to a peace officer  
35 pursuant to Section 10334 of the Public Contract Code. Within 10  
36 days of the date that a pistol, revolver, or other firearm capable of  
37 being concealed upon the person is sold, delivered, or transferred  
38 pursuant to Section 10334 of the Public Contract Code to that  
39 peace officer, the name of the officer and the make, model, serial  
40 number, and other identifying characteristics of the firearm being

1 sold, transferred, or delivered shall be entered into the Automated  
2 Firearms System (AFS) via the California Law Enforcement  
3 Telecommunications System (CLETS) by the law enforcement or  
4 state agency that sold, transferred, or delivered the firearm. Those  
5 agencies without access to AFS shall arrange with the sheriff of the  
6 county in which the agency is located to input this information via  
7 this system.

8 (5) Subdivision (b) of Section 12801 and the preceding  
9 provisions of this article do not apply to the delivery, sale, or  
10 transfer of a firearm by a law enforcement agency to a retiring  
11 peace officer who is authorized to carry a firearm pursuant to  
12 Section 12027.1. Within 10 days of the date that a pistol, revolver,  
13 or other firearm capable of being concealed upon the person is  
14 sold, delivered, or transferred to that retiring peace officer, the  
15 name of the officer and the make, model, serial number, and other  
16 identifying characteristics of the firearm being sold, transferred,  
17 or delivered shall be entered into the Automated Firearms System  
18 (AFS) via the California Law Enforcement Telecommunications  
19 System (CLETS) by the law enforcement or state agency that sold,  
20 transferred, or delivered the firearm. Those agencies without  
21 access to AFS shall arrange with the sheriff of the county in which  
22 the agency is located to input this information via this system.

23 (6) Subdivision (d) of Section 12072 and subdivision (b) of  
24 Section 12801 do not apply to sales, deliveries, or transfers of  
25 firearms to authorized representatives of cities, cities and counties,  
26 counties, or state or federal governments for those governmental  
27 agencies where the entity is acquiring the weapon as part of an  
28 authorized, voluntary program where the entity is buying or  
29 receiving weapons from private individuals. Any weapons  
30 acquired pursuant to this paragraph shall be disposed of pursuant  
31 to the applicable provisions of Section 12028 or 12032.

32 (7) Subdivision (d) of Section 12072 and subdivision (b) of  
33 Section 12801 shall not apply to the sale, loan, delivery, or transfer  
34 of a firearm made by an authorized law enforcement  
35 representative of a city, county, city and county, state, or the federal  
36 government to any public or private nonprofit historical society,  
37 museum, or institutional collection or the purchase or receipt of  
38 that firearm by that public or private nonprofit historical society,  
39 museum, or institutional collection if all of the following  
40 conditions are met:



1 (A) The entity receiving the firearm is open to the public.

2 (B) The firearm prior to delivery is deactivated or rendered  
3 inoperable.

4 (C) The firearm is not subject to Section 12028, 12028.5,  
5 12030, or 12032.

6 (D) The firearm is not prohibited by other provisions of law  
7 from being sold, delivered, or transferred to the public at large.

8 (E) Prior to delivery, the entity receiving the firearm submits  
9 a written statement to the law enforcement representative stating  
10 that the firearm will not be restored to operating condition, and will  
11 either remain with that entity, or if subsequently disposed of, will  
12 be transferred in accordance with the applicable provisions of this  
13 article and, if applicable, Section 12801.

14 (F) Within 10 days of the date that the firearm is sold, loaned,  
15 delivered, or transferred to that entity, the name of the government  
16 entity delivering the firearm, and the make, model, serial number,  
17 and other identifying characteristics of the firearm and the name  
18 of the person authorized by the entity to take possession of the  
19 firearm shall be reported to the department in a manner prescribed  
20 by the department.

21 (G) In the event of a change in the status of the designated  
22 representative, the entity shall notify the department of a new  
23 representative within 30 days.

24 (8) Subdivision (d) of Section 12072 and subdivision (b) of  
25 Section 12801 shall not apply to the sale, loan, delivery, or transfer  
26 of a firearm made by any person other than a representative of an  
27 authorized law enforcement agency to any public or private  
28 nonprofit historical society, museum, or institutional collection if  
29 all of the following conditions are met:

30 (A) The entity receiving the firearm is open to the public.

31 (B) The firearm is deactivated or rendered inoperable prior to  
32 delivery.

33 (C) The firearm is not of a type prohibited from being sold,  
34 delivered, or transferred to the public.

35 (D) Prior to delivery, the entity receiving the firearm submits  
36 a written statement to the person selling, loaning, or transferring  
37 the firearm stating that the firearm will not be restored to operating  
38 condition, and will either remain with that entity, or if  
39 subsequently disposed of, will be transferred in accordance with



1 the applicable, provisions of this article and, if applicable Section  
2 12801.

3 (E) If title to a handgun is being transferred to the public or  
4 private nonprofit historical society, museum, or institutional  
5 collection, then the designated representative of that public or  
6 private historical society, museum or institutional collection  
7 within 30 days of taking possession of that handgun, shall forward  
8 by prepaid mail or deliver in person to the Department of Justice,  
9 a single report signed by both parties to the transaction, that  
10 includes information identifying the person representing that  
11 public or private historical society, museum, or institutional  
12 collection, how title was obtained and from whom, and a  
13 description of the firearm in question, along with a copy of the  
14 written statement referred to in subparagraph (D). The report  
15 forms that are to be completed pursuant to this paragraph shall be  
16 provided by the Department of Justice.

17 (F) In the event of a change in the status of the designated  
18 representative, the entity shall notify the department of a new  
19 representative within 30 days.

20 (b) (1) Section 12071, subdivisions (c) and (d) of Section  
21 12072, and subdivision (b) of Section 12801 shall not apply to  
22 deliveries, sales, or transfers of firearms between or to importers  
23 and manufacturers of firearms licensed to engage in that business  
24 pursuant to Chapter 44 (commencing with Section 921) of Title 18  
25 of the United States Code and the regulations issued pursuant  
26 thereto.

27 (2) Subdivision (b) of Section 12801 shall not apply to the  
28 delivery, sale, or transfer of a handgun to a person licensed  
29 pursuant to Section 12071, where the licensee is receiving the  
30 handgun in the course and scope of his or her activities as a person  
31 licensed pursuant to Section 12071.

32 (c) (1) Subdivision (d) of Section 12072 shall not apply to the  
33 infrequent transfer of a firearm that is not a ~~pistol, revolver, or~~  
34 ~~other firearm capable of being concealed upon the person~~ *handgun*  
35 by gift, bequest, intestate succession, or other means by one  
36 individual to another if both individuals are members of the same  
37 immediate family *and the person receiving the firearm is 18 years*  
38 *of age or older.*

39 (2) Subdivision (d) of Section 12072 shall not apply to the  
40 infrequent transfer of a pistol, revolver, or other firearm capable



1 of being concealed upon the person by gift, bequest, intestate  
2 succession, or other means by one individual to another if both  
3 individuals are members of the same immediate family and ~~both~~  
4 *all* of the following conditions are met:

5 (A) The person to whom the firearm is transferred shall, within  
6 30 days of taking possession of the firearm, forward by prepaid  
7 mail or deliver in person to the Department of Justice, a report that  
8 includes information concerning the individual taking possession  
9 of the firearm, how title was obtained and from whom, and a  
10 description of the firearm in question. The report forms that  
11 individuals complete pursuant to this paragraph shall be provided  
12 to them by the Department of Justice.

13 (B) If taking possession of the firearm prior to January 1, 2003,  
14 the person taking title to the firearm shall first obtain a basic  
15 firearms safety certificate. If taking possession on or after January  
16 1, 2003, the person taking title to the firearm shall first obtain a  
17 handgun safety certificate.

18 (C) *The person receiving the firearm is 18 years of age or older.*

19 (3) As used in this subdivision, “immediate family member”  
20 means any one of the following relationships:

21 (A) Parent and child.

22 (B) Grandparent and grandchild.

23 (d) (1) Subdivision (d) of Section 12072 shall not apply to the  
24 infrequent loan of firearms between persons who are personally  
25 known to each other for any lawful purpose, if the loan does not  
26 exceed 30 days in duration and, when the firearm is a handgun,  
27 commencing January 1, 2003, the individual being loaned the  
28 handgun has a valid handgun safety certificate.

29 (2) Subdivision (d) of Section 12072, and subdivision (b) of  
30 Section 12801 shall not apply to the loan of a firearm where all of  
31 the following conditions exist:

32 (A) The person loaning the firearm is at all times within the  
33 presence of the person being loaned the firearm.

34 (B) The loan is for a lawful purpose.

35 (C) The loan does not exceed three days in duration.

36 (D) The individual receiving the firearm is not prohibited from  
37 owning or possessing a firearm pursuant to Section 12021 or  
38 12021.1 of this code, or by Section 8100 or 8103 of the Welfare  
39 and Institutions Code.

40 (E) The person loaning the firearm is 18 years of age or older.

1 (F) The person being loaned the firearm is 18 years of age or  
2 older.

3 (e) Section 12071, subdivisions (c) and (d) of Section 12072,  
4 and subdivision (b) of Section 12801 shall not apply to the delivery  
5 of a firearm to a gunsmith for service or repair, or to the return of  
6 the firearm to its owner by the gunsmith.

7 (f) Subdivision (d) of Section 12072 and subdivision (b) of  
8 Section 12801 shall not apply to the sale, delivery, or transfer of  
9 firearms by persons who reside in this state to persons who reside  
10 outside this state who are licensed pursuant to Chapter 44  
11 (commencing with Section 921) of Title 18 of the United States  
12 Code and the regulations issued pursuant thereto, if the sale,  
13 delivery, or transfer is in accordance with Chapter 44  
14 (commencing with Section 921) of Title 18 of the United States  
15 Code and the regulations issued pursuant thereto.

16 (g) (1) Subdivision (d) of Section 12072 shall not apply to the  
17 infrequent sale or transfer of a firearm, other than a pistol,  
18 revolver, or other firearm capable of being concealed upon the  
19 person, at auctions or similar events conducted by nonprofit  
20 mutual or public benefit corporations organized pursuant to the  
21 Corporations Code.

22 As used in this paragraph, the term “infrequent” shall not be  
23 construed to prohibit different local chapters of the same nonprofit  
24 corporation from conducting auctions or similar events, provided  
25 the individual local chapter conducts the auctions or similar events  
26 infrequently. It is the intent of the Legislature that different local  
27 chapters, representing different localities, be entitled to invoke the  
28 exemption created by this paragraph, notwithstanding the  
29 frequency with which other chapters of the same nonprofit  
30 corporation may conduct auctions or similar events.

31 (2) Subdivision (d) of Section 12072 shall not apply to the  
32 transfer of a firearm other than a pistol, revolver, or other firearm  
33 capable of being concealed upon the person, if the firearm is  
34 donated for an auction or similar event described in paragraph (1)  
35 and the firearm is delivered to the nonprofit corporation  
36 immediately preceding, or contemporaneous with, the auction or  
37 similar event.

38 (3) The waiting period described in Sections 12071 and 12072  
39 shall not apply to a dealer who delivers a firearm other than a  
40 pistol, revolver, or other firearm capable of being concealed upon

1 the person, at an auction or similar event described in paragraph  
2 (1), as authorized by subparagraph (C) of paragraph (1) of  
3 subdivision (b) of Section 12071. Within two business days of  
4 completion of the application to purchase, the dealer shall forward  
5 by prepaid mail to the Department of Justice a report of the same  
6 as is indicated in subdivision (c) of Section 12077. If the electronic  
7 or telephonic transfer of applicant information is used, within two  
8 business days of completion of the application to purchase, the  
9 dealer delivering the firearm shall transmit to the Department of  
10 Justice an electronic or telephonic report of the same as is indicated  
11 in subdivision (c) of Section 12077.

12 (h) Subdivision (d) of Section 12072 and subdivision (b) of  
13 Section 12801 shall not apply to the loan of a firearm to a person  
14 18 years of age or older for the purposes of shooting at targets if  
15 the loan occurs on the premises of a target facility that holds a  
16 business or regulatory license or on the premises of any club or  
17 organization organized for the purposes of practicing shooting at  
18 targets upon established ranges, whether public or private, if the  
19 firearm is at all times kept within the premises of the target range  
20 or on the premises of the club or organization.

21 (i) (1) Subdivision (d) of Section 12072 shall not apply to a  
22 person who takes title or possession of a firearm that is not a pistol,  
23 revolver, or other firearm capable of being concealed upon the  
24 person by operation of law if the person is not prohibited by  
25 Section 12021 or 12021.1 of this code or Section 8100 or 8103 of  
26 the Welfare and Institutions Code from possessing firearms.

27 (2) Subdivision (d) of Section 12072 shall not apply to a person  
28 who takes title or possession of a pistol, revolver, or other firearm  
29 capable of being concealed upon the person by operation of law if  
30 the person is not prohibited by Section 12021 or 12021.1 of this  
31 code or Section 8100 or 8103 of the Welfare and Institutions Code  
32 from possessing firearms and all of the following conditions are  
33 met:

34 (A) If the person taking title or possession is neither a levying  
35 officer as defined in Section 481.140, 511.060, or 680.210 of the  
36 Code of Civil Procedure, nor a person who is receiving that firearm  
37 pursuant to subparagraph (G), (I), or (J) of paragraph (2) of  
38 subdivision (u), the person shall, within 30 days of taking  
39 possession, forward by prepaid mail or deliver in person to the  
40 Department of Justice, a report of information concerning the



1 individual taking possession of the firearm, how title or possession  
2 was obtained and from whom, and a description of the firearm in  
3 question. The reports that individuals complete pursuant to this  
4 paragraph shall be provided to them by the department.

5 (B) If the person taking title or possession is receiving the  
6 firearm pursuant to subparagraph (G) of paragraph (2) of  
7 subdivision (u), the person shall do both of the following:

8 (i) Within 30 days of taking possession, forward by prepaid  
9 mail or deliver in person to the department, a report of information  
10 concerning the individual taking possession of the firearm, how  
11 title or possession was obtained and from whom, and a description  
12 of the firearm in question. The reports that individuals complete  
13 pursuant to this paragraph shall be provided to them by the  
14 department.

15 (ii) Prior to taking title or possession of the firearm, if title or  
16 possession is taken prior to January 1, 2003, the person shall either  
17 obtain a basic firearms safety certificate or be exempt from  
18 obtaining a basic firearms safety certificate pursuant to Section  
19 12081. Prior to taking title or possession of the firearm, if title or  
20 possession is taken on or after January 1, 2003, the person shall  
21 obtain a handgun safety certificate.

22 (C) Where the person receiving title or possession of the pistol,  
23 revolver, or other firearm capable of being concealed upon the  
24 person is a person described in subparagraph (I) of paragraph (2)  
25 of subdivision (u), on the date that the person is delivered the  
26 firearm, the name and other information concerning the person  
27 taking possession of the firearm, how title or possession of the  
28 firearm was obtained and from whom, and a description of the  
29 firearm by make, model, serial number, and other identifying  
30 characteristics, shall be entered into the Automated Firearms  
31 System (AFS) via the California Law Enforcement  
32 Telecommunications System (CLETS) by the law enforcement or  
33 state agency that transferred or delivered the firearm. Those  
34 agencies without access to AFS shall arrange with the sheriff of the  
35 county in which the agency is located to input this information via  
36 this system.

37 (D) Where the person receiving title or possession of the pistol,  
38 revolver, or other firearm capable of being concealed upon the  
39 person is a person described in subparagraph (J) of paragraph (2)  
40 of subdivision (u), on the date that the person is delivered the

firearm, the name and other information concerning the person taking possession of the firearm, how title or possession of the firearm was obtained and from whom, and a description of the firearm by make, model, serial number, and other identifying characteristics, shall be entered into the AFS via the CLETS by the law enforcement or state agency that transferred or delivered the firearm. Those agencies without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system. In addition, that law enforcement agency shall not deliver that pistol, revolver, or other firearm capable of being concealed upon the person to the person referred to in this subparagraph if delivery takes place prior to January 1, 2003, unless, prior to the delivery of the same, the person presents proof to the agency that he or she is the holder of a basic firearms safety certificate or is exempt from obtaining a basic firearms safety certificate pursuant to Section 12081, or, commencing January 1, 2003, is the holder of a handgun safety certificate.

(3) Subdivision (d) of Section 12072 shall not apply to a person who takes possession of a firearm by operation of law in a representative capacity who subsequently transfers ownership of the firearm to himself or herself in his or her individual capacity. In the case of a pistol, revolver, or other firearm capable of being concealed upon the person, on and after April 1, 1994, and until January 1, 2003, that individual shall have a basic firearms safety certificate in order for the exemption set forth in this paragraph to apply. Commencing January 1, 2003, the exemption shall not apply, and the individual shall obtain a handgun safety certificate prior to transferring ownership to himself or herself, or taking possession of a handgun in an individual capacity.

(j) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 shall not apply to deliveries, transfers, or returns of firearms made pursuant to Section 12028, 12028.5, or 12030.

(k) Section 12071, subdivision (c) of Section 12072, and subdivision (b) of Section 12801 shall not apply to any of the following:

(1) The delivery, sale, or transfer of unloaded firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person by a dealer to another dealer upon proof of compliance with the requirements of paragraph (1) of subdivision (f) of Section 12072.



1 (2) The delivery, sale, or transfer of unloaded firearms by  
2 dealers to persons who reside outside this state who are licensed  
3 pursuant to Chapter 44 (commencing with Section 921) of Title 18  
4 of the United States Code and the regulations issued pursuant  
5 thereto.

6 (3) The delivery, sale, or transfer of unloaded firearms to a  
7 wholesaler if the firearms are being returned to the wholesaler and  
8 are intended as merchandise in the wholesaler's business.

9 (4) The delivery, sale, or transfer of unloaded firearms by one  
10 dealer to another dealer if the firearms are intended as merchandise  
11 in the receiving dealer's business upon proof of compliance with  
12 the requirements of paragraph (1) of subdivision (f) of Section  
13 12072.

14 (5) The delivery, sale, or transfer of an unloaded firearm that  
15 is not a pistol, revolver, or other firearm capable of being  
16 concealed upon the person by a dealer to himself or herself.

17 (6) The loan of an unloaded firearm by a dealer who also  
18 operates a target facility that holds a business or regulatory license  
19 on the premises of the building designated in the license or whose  
20 building designated in the license is on the premises of any club or  
21 organization organized for the purposes of practicing shooting at  
22 targets upon established ranges, whether public or private, to a  
23 person at that target facility or that club or organization, if the  
24 firearm is at all times kept within the premises of the target range  
25 or on the premises of the club or organization.

26 (l) A person who is exempt from subdivision (d) of Section  
27 12072 or is otherwise not required by law to report his or her  
28 acquisition, ownership, or disposal of a pistol, revolver, or other  
29 firearm capable of being concealed upon the person or who moves  
30 out of this state with his or her pistol, revolver, or other firearm  
31 capable of being concealed upon the person may submit a report  
32 of the same to the Department of Justice in a format prescribed by  
33 the department.

34 (m) Subdivision (d) of Section 12072 and subdivision (b) of  
35 Section 12801 shall not apply to the delivery, sale, or transfer of  
36 unloaded firearms to a wholesaler as merchandise in the  
37 wholesaler's business by manufacturers or importers licensed to  
38 engage in that business pursuant to Chapter 44 (commencing with  
39 Section 921) of Title 18 of the United States Code and the  
40 regulations issued pursuant thereto, or by another wholesaler, if





1 the delivery, sale, or transfer is made in accordance with Chapter  
2 44 (commencing with Section 921) of Title 18 of the United States  
3 Code.

4 (n) (1) The waiting period described in Section 12071 or  
5 12072 shall not apply to the delivery, sale, or transfer of a pistol,  
6 revolver, or other firearm capable of being concealed upon the  
7 person by a dealer in either of the following situations:

8 (A) The dealer is delivering the firearm to another dealer and  
9 it is not intended as merchandise in the receiving dealer's business.

10 (B) The dealer is delivering the firearm to himself or herself  
11 and it is not intended as merchandise in his or her business.

12 (2) In order for this subdivision to apply, both of the following  
13 shall occur:

14 (A) If the dealer is receiving the firearm from another dealer,  
15 the dealer receiving the firearm shall present proof to the dealer  
16 delivering the firearm that he or she is licensed pursuant to Section  
17 12071 by complying with paragraph (1) of subdivision (f) of  
18 Section 12072.

19 (B) Whether the dealer is delivering, selling, or transferring the  
20 firearm to himself or herself or to another dealer, on the date that  
21 the application to purchase is completed, the dealer delivering the  
22 firearm shall forward by prepaid mail to the Department of Justice  
23 a report of the same and the type of information concerning the  
24 purchaser or transferee as is indicated in subdivision (b) of Section  
25 12077. Where the electronic or telephonic transfer of applicant  
26 information is used, on the date that the application to purchase is  
27 completed, the dealer delivering the firearm shall transmit an  
28 electronic or telephonic report of the same and the type of  
29 information concerning the purchaser or transferee as is indicated  
30 in subdivision (b) of Section 12077.

31 (o) Section 12071 and subdivisions (c) and (d) of Section  
32 12072 shall not apply to the delivery, sale, or transfer of firearms  
33 regulated pursuant to Section 12020, Chapter 2 (commencing with  
34 Section 12200), or Chapter 2.3 (commencing with Section  
35 12275), if the delivery, sale, or transfer is conducted in accordance  
36 with the applicable provisions of Section 12020, Chapter 2  
37 (commencing with Section 12200), or Chapter 2.3 (commencing  
38 with Section 12275).

39 (p) (1) Paragraph (3) of subdivision (a) and subdivision (d) of  
40 Section 12072 shall not apply to the loan of a firearm that is not

1 a pistol, revolver, or other firearm capable of being concealed upon  
2 the person to a minor, with the express permission of the parent or  
3 legal guardian of the minor, if the loan does not exceed 30 days in  
4 duration and is for a lawful purpose.

5 (2) Paragraph (3) of subdivision (a) of Section 12072,  
6 subdivision (d) of Section 12072, and subdivision (b) of Section  
7 12801 shall not apply to the loan of a pistol, revolver, or other  
8 firearm capable of being concealed upon the person to a minor by  
9 a person who is not the parent or legal guardian of the minor if all  
10 of the following circumstances exist:

11 (A) The minor has the written consent of his or her parent or  
12 legal guardian that is presented at the time of, or prior to the time  
13 of, the loan, or is accompanied by his or her parent or legal  
14 guardian at the time the loan is made.

15 (B) The minor is being loaned the firearm for the purpose of  
16 engaging in a lawful, recreational sport, including, but not limited  
17 to, competitive shooting, or agricultural, ranching, or hunting  
18 activity, or a motion picture, television, or video production, or  
19 entertainment or theatrical event, the nature of which involves the  
20 use of a firearm.

21 (C) The duration of the loan does not exceed the amount of time  
22 that is reasonably necessary to engage in the lawful, recreational  
23 sport, including, but not limited to, competitive shooting, or  
24 agricultural, ranching, or hunting activity, or a motion picture,  
25 television, or video production, or entertainment or theatrical  
26 event, the nature of which involves the use of a firearm.

27 (D) The duration of the loan does not, in any event, exceed 10  
28 days.

29 (3) Paragraph (3) of subdivision (a), subdivision (d) of Section  
30 12072, and subdivision (b) of Section 12801 shall not apply to the  
31 loan of a pistol, revolver, or other firearm capable of being  
32 concealed upon the person to a minor by his or her parent or legal  
33 guardian if both of the following circumstances exist:

34 (A) The minor is being loaned the firearm for the purposes of  
35 engaging in a lawful, recreational sport, including, but not limited  
36 to, competitive shooting, or agricultural, ranching, or hunting  
37 activity, or a motion picture, television, or video production, or  
38 entertainment or theatrical event, the nature of which involves the  
39 use of a firearm.



1 (B) The duration of the loan does not exceed the amount of time  
2 that is reasonably necessary to engage in the lawful, recreational  
3 sport, including, but not limited to, competitive shooting, or  
4 agricultural, ranching, or hunting activity, or a motion picture,  
5 television, or video production, or entertainment or theatrical  
6 event, the nature of which involves the use of a firearm.

7 (4) Paragraph (3) of subdivision (a) *and subdivision (d)* of  
8 Section 12072 shall not apply to the transfer or loan of a firearm  
9 that is not a ~~pistol, revolver, or other firearm capable of being~~  
10 ~~concealed upon the person~~ *handgun* to a minor by his or her parent  
11 or legal guardian.

12 (5) Paragraph (3) of subdivision (a) *and subdivision (d)* of  
13 Section 12072 shall not apply to the transfer or loan of a firearm  
14 that is not a ~~pistol, revolver, or other firearm capable of being~~  
15 ~~concealed upon the person~~ *handgun* to a minor by his or her  
16 grandparent who is not the legal guardian of the minor if the  
17 transfer is done with the express permission of the parent or legal  
18 guardian of the minor.

19 (6) Subparagraph (A) of paragraph (3) of subdivision (a) of  
20 Section 12072 shall not apply to the sale of a handgun if both of  
21 the following requirements are satisfied:

22 (A) The sale is to a person who is at least 18 years of age.

23 (B) The firearm is an antique firearm as defined in paragraph  
24 (16) of subsection (a) of Section 921 of Title 18 of the United  
25 States Code.

26 (q) Subdivision (d) of Section 12072 shall not apply to the loan  
27 of a firearm that is not a pistol, revolver, or other firearm capable  
28 of being concealed upon the person to a licensed hunter for use by  
29 that licensed hunter for a period of time not to exceed the duration  
30 of the hunting season for which that firearm is to be used.

31 (r) The waiting period described in Section 12071, 12072, or  
32 12084 shall not apply to the delivery, sale, or transfer of a firearm  
33 to the holder of a special weapons permit issued by the Department  
34 of Justice issued pursuant to Section 12095, 12230, 12250, or  
35 12305. On the date that the application to purchase is completed,  
36 the dealer delivering the firearm or the law enforcement agency  
37 processing the transaction pursuant to Section 12084, shall  
38 forward by prepaid mail to the Department of Justice a report of  
39 the same as described in subdivision (b) or (c) of Section 12077 or  
40 Section 12084. If the electronic or telephonic transfer of applicant

1 information is used, on the date that the application to purchase is  
2 completed, the dealer delivering the firearm shall transmit to the  
3 Department of Justice an electronic or telephonic report of the  
4 same as is indicated in subdivision (b) or (c) of Section 12077.

5 (s) Subdivision (d) of Section 12072 and subdivision (b) of  
6 Section 12801 shall not apply to the loan of an unloaded firearm  
7 or the loan of a firearm loaded with blank cartridges, to a person  
8 18 years of age or older, for use solely as a prop for a motion  
9 picture, television, or video production or an entertainment or  
10 theatrical event.

11 (t) (1) The waiting period described in Sections 12071, 12072,  
12 and 12084 shall not apply to the sale, delivery, loan, or transfer of  
13 a firearm that is a curio or relic, as defined in Section 178.11 of  
14 Title 27 of the Code of Federal Regulations, by a dealer or through  
15 a law enforcement agency to a person who is licensed as a collector  
16 pursuant to Chapter 44 (commencing with Section 921) of Title 18  
17 of the United States Code and the regulations issued pursuant  
18 thereto who has a current certificate of eligibility issued to him or  
19 her by the Department of Justice pursuant to Section 12071. On the  
20 date that the delivery, sale, or transfer is made, the dealer  
21 delivering the firearm or the law enforcement agency processing  
22 the transaction pursuant to Section 12084, shall forward by  
23 prepaid mail to the Department of Justice a report of the  
24 transaction pursuant to subdivision (b) of Section 12077 or Section  
25 12084. If the electronic or telephonic transfer of applicant  
26 information is used, on the date that the application to purchase is  
27 completed, the dealer delivering the firearm shall transmit to the  
28 Department of Justice an electronic or telephonic report of the  
29 transaction as is indicated in subdivision (b) or (c) of Section  
30 12077.

31 (2) Subdivision (d) of Section 12072 shall not apply to the  
32 infrequent sale, loan, or transfer of a firearm that is not a pistol,  
33 revolver, or other firearm capable of being concealed upon the  
34 person, which is a curio or relic manufactured at least 50 years  
35 prior to the current date, but not including replicas thereof, as  
36 defined in Section 178.11 of Title 27 of the Code of Federal  
37 Regulations.

38 (u) As used in this section:

39 (1) “Infrequent” has the same meaning as in paragraph (1) of  
40 subdivision (c) of Section 12070.



1 (2) “A person taking title or possession of firearms by  
2 operation of law” includes, but is not limited to, any of the  
3 following instances wherein an individual receives title to, or  
4 possession of, firearms:

5 (A) The executor or administrator of an estate if the estate  
6 includes firearms.

7 (B) A secured creditor or an agent or employee thereof when  
8 the firearms are possessed as collateral for, or as a result of, a  
9 default under a security agreement under the Commercial Code.

10 (C) A levying officer, as defined in Section 481.140, 511.060,  
11 or 680.260 of the Code of Civil Procedure.

12 (D) A receiver performing his or her functions as a receiver if  
13 the receivership estate includes firearms.

14 (E) A trustee in bankruptcy performing his or her duties if the  
15 bankruptcy estate includes firearms.

16 (F) An assignee for the benefit of creditors performing his or  
17 her functions as an assignee, if the assignment includes firearms.

18 (G) A transmutation of property consisting of firearms  
19 pursuant to Section 850 of the Family Code.

20 (H) Firearms passing to a surviving spouse pursuant to Chapter  
21 1 (commencing with Section 13500) of Part 2 of Division 8 of the  
22 Probate Code.

23 (I) Firearms received by the family of a police officer or deputy  
24 sheriff from a local agency pursuant to Section 50081 of the  
25 Government Code.

26 (J) The transfer of a firearm by a law enforcement agency to the  
27 person who found the firearm where the delivery is to the person  
28 as the finder of the firearm pursuant to Article 1 (commencing with  
29 Section 2080) of Chapter 4 of Division 3 of the Civil Code.

30 SEC. 4. Section 12101 of the Penal Code is amended to read:

31 12101. (a) (1) A minor shall not possess a ~~pistol, revolver, or~~  
32 ~~other firearm capable of being concealed upon the person~~  
33 ~~handgun.~~

34 (2) Paragraph (1) shall not apply if one of the following  
35 circumstances exists:

36 (A) The minor is accompanied by his or her parent or legal  
37 guardian, and the minor is actively engaged in, or is in direct transit  
38 to or from, a lawful, recreational sport, including, but not limited  
39 to, competitive shooting, or agricultural, ranching, or hunting  
40 activity, or a motion picture, television, or video production, or

1 entertainment or theatrical event, the nature of which involves this  
2 use of a firearm.

3 (B) The minor is accompanied by a responsible adult, the minor  
4 has the prior written consent of his or her parent or legal guardian,  
5 and the minor is actively engaged in, or is in direct transit to or  
6 from, a lawful, recreational sport, including, but not limited to,  
7 competitive shooting, or agricultural, ranching, or hunting  
8 activity, or a motion picture, television, or video production, or  
9 entertainment or theatrical event, the nature of which involves the  
10 use of a firearm.

11 (C) The minor is at least 16 years of age, the minor has the prior  
12 written consent of his or her parent or legal guardian and the minor  
13 is actively engaged in, or is in direct transit to or from, a lawful  
14 recreational sport, including, but not limited to, competitive  
15 shooting, or agricultural, ranching, or hunting activity, or a motion  
16 picture, television, or video production, or entertainment or  
17 theatrical event, the nature of which involves the use of a firearm.

18 (D) The minor has the prior written consent of his or her parent  
19 or legal guardian, the minor is on lands owned or lawfully  
20 possessed by his or her parent or legal guardian, and the minor is  
21 actively engaged in, or is in direct transit to or from, a lawful,  
22 recreational sport, including, but not limited to, competitive  
23 shooting, or agricultural, ranching, or hunting activity, or a motion  
24 picture, television, or video production, or entertainment or  
25 theatrical event, the nature of which involves the use of a firearm.

26 (3) *A minor shall not possess a firearm that is not a handgun.*

27 (4) *Paragraph (3) shall not apply if one of the following*  
28 *circumstances exist:*

29 (A) *The minor is accompanied by his or her parent or legal*  
30 *guardian, and the minor is actively engaged in, or is in direct*  
31 *transit to or from, a lawful recreational sport, including, but not*  
32 *limited to, competitive shooting, or agricultural, ranching, or*  
33 *hunting activity, or a motion picture, television, or video*  
34 *production, or entertainment or theatrical event, the nature of*  
35 *which involves this use of a firearm.*

36 (B) *The minor is accompanied by a responsible adult, the minor*  
37 *has the prior written consent of his or her parent or legal guardian,*  
38 *and the minor is actively engaged in, or is in direct transit to or*  
39 *from, a lawful recreational sport, including, but not limited to,*  
40 *competitive shooting, or agricultural, ranching, or hunting*



1 activity, or a motion picture, television, or video production, or  
2 entertainment or theatrical event, the nature of which involves the  
3 use of a firearm.

4 (C) The minor is at least 16 years of age, the minor has the prior  
5 written consent of his or her parent or legal guardian and the  
6 minor is actively engaged in, or is in direct transit to or from, a  
7 lawful recreational sport, including, but not limited to, competitive  
8 shooting, or agricultural, ranching, or hunting activity, or a  
9 motion picture, television, or video production, or entertainment  
10 or theatrical event, the nature of which involves the use of a  
11 firearm.

12 (D) The minor has the prior written consent of his or her parent  
13 or legal guardian, the minor is on lands owned or lawfully  
14 possessed by his or her parent or legal guardian, and the minor is  
15 actively engaged in, or is in direct transit to or from, a lawful  
16 recreational sport, including, but not limited to, competitive  
17 shooting, or agricultural, ranching, or hunting activity, or a  
18 motion picture, television, or video production, or entertainment  
19 or theatrical event, the nature of which involves the use of a  
20 firearm.

21 (E) All of the following conditions are met:

22 (i) The minor lawfully received that firearm pursuant to the  
23 exemption from the prohibitions set forth in paragraph (3) of  
24 subdivision (a) of Section 12072 as set forth in paragraph (4) or  
25 (5) of subdivision (p) of Section 12078.

26 (ii) One of the following conditions apply:

27 (I) The firearm is secured by a firearms safety device that is  
28 listed on the Department of Justice's roster of approved firearms  
29 safety devices and that is identified as appropriate for that firearm  
30 by reference to either the manufacturer and model of the firearm,  
31 or to the physical characteristics of the firearm that match those  
32 listed on the roster for use with the device as set forth in Section  
33 12088.1

34 (II) The firearm is contained with a gun safe that meets the  
35 standards for gun safes adopted pursuant to Section 12088.2

36 (III) The minor is in the presence of his or her parent or legal  
37 guardian.

38 (IV) The minor is in the presence of a responsible adult.

39 (b) (1) A minor shall not possess live ammunition.



(2) Paragraph (1) shall not apply if one of the following circumstances exists:

(A) The minor has the written consent of his or her parent or legal guardian to possess live ammunition.

(B) The minor is accompanied by his or her parent or legal guardian.

(C) The minor is actively engaged in, or is going to or from, a lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, the nature of which involves the use of a firearm.

(c) Every minor who violates this section shall be punished as follows:

(1) By imprisonment in the state prison or in a county jail if one of the following applies:

(A) The minor has been found guilty previously of violating this section.

(B) The minor has been found guilty previously of an offense specified in subdivision (b) of Section 12021.1 or in Section 12020, 12220, 12520, or 12560.

(C) The minor has been found guilty of a violation of paragraph (1) of subdivision (a).

(2) Violations of this section other than those violations specified in paragraph (1) shall be punishable as a misdemeanor.

(d) In a proceeding to enforce this section brought pursuant to Article 14 (commencing with Section 601) of Chapter 2 of Part 1 of the Welfare and Institutions Code, the court may require the custodial parent or legal guardian of a minor who violates this section to participate in classes on parenting education that meet the requirements established in Section 16507.7 of the Welfare and Institutions Code.

(e) As used in this section, “responsible adult” means a person at least 21 years of age who is not within a class of persons prohibited from owning or possessing firearms by virtue of Section 12021 or 12021.1 of this code, or Section 8100 or 8103 of the Welfare and Institutions Code.

(f) It is not the intent of the Legislature in enacting the amendments to this section or to Section 12078 to expand or narrow the application of current statutory or judicial authority as to the rights of minors to be loaned or to possess live ammunition or a firearm for the purpose of self-defense or the defense of others.

1     (g) *The provisions of this section are cumulative and shall not*  
2 *be construed as restricting the application of any other law.*  
3 *However, an act or omission punishable in different ways by this*  
4 *section and different provisions of this code shall not be punished*  
5 *under more than one provision.*

6     SEC. 5. No reimbursement is required by this act pursuant to  
7 Section 6 of Article XIII B of the California Constitution because  
8 the only costs that may be incurred by a local agency or school  
9 district will be incurred because this act creates a new crime or  
10 infraction, eliminates a crime or infraction, or changes the penalty  
11 for a crime or infraction, within the meaning of Section 17556 of  
12 the Government Code, or changes the definition of a crime within  
13 the meaning of Section 6 of Article XIII B of the California  
14 Constitution.

